

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY	)	MDL No. 1456
AVERAGE WHOLESALE PRICE	)	
LITIGATION	)	CIVIL ACTION: 01-CV-12257-PBS
	)	
THIS DOCUMENT RELATES TO:	)	
	)	Judge Patti B. Saris
<i>State of Montana v. Abbott Labs, Inc., et al.,</i>	)	
D. Mont. Cause No. CV-02-09-H-DWM	)	
	)	
	)	
	)	

---

**[PROPOSED] ORDER ON B. BRAUN OF AMERICA INC.'S RENEWED MOTION TO  
DISMISS THE STATE OF MONTANA'S SECOND AMENDED COMPLAINT**

---

WHEREAS B. Braun of America Inc. filed a Renewed Motion to Dismiss the State of Montana's Second Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(2) and 12(b)(6). Having considered the arguments presented by the parties, for the reasons expressed in the Memorandum filed by B. Braun of America Inc. in support of its Renewed Motion to Dismiss, it is hereby ORDERED that B. Braun of America Inc. is DISMISSED WITH PREJUDICE as a defendant in the action brought by the State of Montana.

It is so ORDERED.

Entered this \_\_\_\_ day of September, 2004.

---

Patti B. Saris  
United States District Judge

Dated: September 10, 2004

Respectfully submitted,

s/ Colin R. Kass

Daniel F. Attridge, P.C.

Colin R. Kass

KIRKLAND & ELLIS LLP

655 Fifteenth Street, N.W., Suite 1200

Washington, D.C. 20005

Telephone: (202) 879-5000

Facsimile: (202) 879-5200

***Counsel for B. Braun of America Inc.***

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing [Proposed] Order on B. Braun of America Inc.'s Renewed Motion to Dismiss the State of Montana's Second Amended Complaint has been served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to Verilaw Technologies for posting and notification to all parties on this 10<sup>th</sup> day of September, 2004.

s/ Colin R. Kass

Daniel F. Attridge, P.C.

Colin R. Kass

KIRKLAND & ELLIS LLP

655 Fifteenth Street, N.W., Suite 1200

Washington, D.C. 20005

Tel: (202) 879-5000

Fax: (202) 879-5200

***Counsel for B. Braun of America Inc.***